

## **MINUTES**

### **MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FINANCE AND CLAIMS**

**Call to Order:** By **CHAIRMAN TOM ZOOK**, on January 29, 2003 at 5:00 A.M., in Room 303 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Tom Zook, Chairman (R)  
Sen. Bill Tash, Vice Chairman (R)  
Sen. Keith Bales (R)  
Sen. Gregory D. Barkus (R)  
Sen. John Cobb (R)  
Sen. Mike Cooney (D)  
Sen. John Esp (R)  
Sen. Royal Johnson (R)  
Sen. Bob Keenan (R)  
Sen. Rick Laible (R)  
Sen. Linda Nelson (D)  
Sen. Trudi Schmidt (D)  
Sen. Debbie Shea (D)  
Sen. Emily Stonington (D)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** Sen. Edward Butcher (R)  
Sen. Bea McCarthy (D)  
Sen. Jon Tester (D)  
Sen. Corey Stapleton (R)

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Taryn Purdy, Legislative Branch

**Please Note:**

**Audio-only Committees:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted:

Executive Action: HB 1; HB 16; HB 46; HB 162; SB 28

**EXECUTIVE ACTION ON HB 1**

**Motion/Vote:** SEN. DEBBIE SHEA moved that HB 1 DO PASS. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 16**

**Motion/Vote:** SEN. MIKE COONEY moved that HB 16 DO PASS. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 46**

**Motion/Vote:** SEN. COONEY moved that HB 46 DO PASS. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 162**

**Motion:** SEN. COONEY moved that HB 162 DO PASS.

**Discussion:**

SEN. ROYAL JOHNSON asked if taking the \$20 would preclude doing anything else in the gaming division during the session.

CHAIRMAN TOM ZOOK advised it was up to him.

SEN. JOHNSON indicated he would vote for the bill but wanted another one.

**Vote:** Motion that HB 162 DO PASS carried unanimously.

**EXECUTIVE ACTION ON SB 28**

CHAIRMAN ZOOK advised the bill was referred and had a committee hearing. The bill would create a statutory appropriation. He introduced SB002801.atp EXHIBIT(fcs19a01) and explained it would direct the money back to the general fund.

Annie Goodwin, Commissioner of Banking and Financial Institutions Division, explained one of the sections of their bill that amended the deferred deposit lending act provided for a special revenue account. The fiscal note on the special revenue account indicated that \$34,000 per year would be utilized and fees would be collected from the payday lenders. Her office regulates the payday lenders in the state, examines them, and license those entities. In terms of their licensing and examination functions there is a fee that is assessed for the work they do. Like all the other programs within the banking division, these are self-

supporting entities--banks, credit unions, and title lenders are all required to pay fees to support the program. The division receives no general fund money, and the amendment would have those entities subsidize the oversight of the payday lenders. She requested allowing the special revenue account to exist.

**JEFF MANGAN, SD 23, Great Falls,** advised that since its inception the deferred deposit loan act has been self-sufficient in terms of the regulation put in place in 1999. Both licensure and auditing fees and any civil fees or penalties would go directly to the special revenue account; then banking division can utilize the money for the express purpose of implementing the deferred deposit loan act as written.

**Questions:**

**SEN. JOHN ESP** asked if anything in the bill pertains to licensing fees.

**Ms. Goodwin** advised there is nothing in the bill that pertains to licensing fees. A fee of \$120 per license presently exists under Montana law.

**SEN. ESP** asked if there is a penalty for a violation in the banking industry, if the monetary penalty goes directly back to her division.

**Ms. Goodwin** indicated there had been no occasion for the division to assess a civil money penalty against any entity, but the civil money penalty amendment to the bill provides the division with the capability of doing that in the event there were repeat violations by payday lenders.

**SEN. MIKE COONEY** asked if the division was currently funded with special revenue and all of the money comes from the regulation of banks and credit unions.

**Ms. Goodwin** advised that was correct.

**SEN. COONEY** asked if they were currently regulating the payday lenders.

**Ms. Goodwin** advised that was correct.

**SEN. COONEY** asked if the fees were currently going into the general fund and the division did not have access to those.

**Ms. Goodwin** stated that was correct.

**SEN. COONEY** asked if the **CHAIRMAN ZOOK'S** amendment is successful, the banks and the credit unions would be underwriting the division's work in this particular area.

**Ms. Goodwin** affirmed that was correct.

**SEN. GREGORY BARKUS** asked **Taryn Purdy, Legislative Services**, how the fiscal note is impacted by the amendment.

**Ms. Purdy** advised the fiscal note would change from a reduction in general fund deposits to a neutral general fund position. There would be essentially a zero impact fiscal note.

**CHAIRMAN ZOOK** asked if the division was doing that work now.

**Ms. Goodwin** advised that was correct.

**CHAIRMAN ZOOK** inquired if the fees received from the banks were based on assets.

**Ms. Goodwin** indicated the fees are based upon the total amount of assets and the larger the volume of assets the greater the fee assessed against that financial institution.

**CHAIRMAN ZOOK** wondered if those fees will not be changed in any way.

**Ms. Goodwin** advised a number of the division's proposals advanced through the **Government Transportation Subcommittee** to improve the division and the examination processes for the safety and soundness of financial institutions and the proposals passed. There will be an impact upon reserves as the result of the division's budget proposals and eventually there will be a need to increase the fees and assessments on the institutions they provide services to.

**CHAIRMAN ZOOK** asked if there was presently a substantial balance in that fund.

**Ms. Goodwin** answered yes.

**CHAIRMAN ZOOK** asked how long that balance would be in place if nothing different was adopted before it would be a moot point.

**Ms. Goodwin** stated one of the issues the **Legislative Fiscal Division** raised was at the end of the next biennium the fund would be depleted to the sum of almost \$500,000 and there was a concern as to what the ramifications would be to the institutions the division serves and provides regulatory oversight. There

would be an obligation and responsibility upon the division to require an increased assessment in fees to the banks, credit unions, consumer loan companies they provide services to.

**CHAIRMAN ZOOK** asked if the examinations of the division are confined just to state banks.

**Ms. Goodwin** answered they are confined to state chartered banks.

**CHAIRMAN ZOOK** asked if the federal government audits those same banks.

**Ms. Goodwin** contended the FDIC and the Federal Reserve Bank also perform examination functions, however, under Montana law the division is required to examine state chartered institutions at least every 18 months. She indicated they rotate examination functions with the FDIC or if it is a Fed member bank, with the Federal Reserve Bank. The division's primary obligation is to provide examination oversight to state chartered institutions.

**SEN. ROYAL JOHNSON** asked about the second page of the bill line 7 Section 2 which strikes banks, savings and loans etc. and references a statute, 32-8-502. He asked if that statute referenced banks.

**Ms. Goodwin** advised that section of the law essentially makes that definition consistent with the other definitions of banks, credit unions, and savings and loan institutions and also includes consumer loan companies which would be required to be licensed in the event they were to engage in deferred deposit lending.

**Motion:** **SEN. JOHNSON** moved that **SB002801.ATP DO PASS.**

**SEN. COONEY** advised he would vote against the amendment. He understood why the chairman brought the amendment but contended fees are supposed to be comeasurate with the costs of providing service. In this case, banks and credit unions would be asked to underwrite the amount of money needed to manage the program. He argued for consistency.

**CHAIRMAN ZOOK** mentioned the budget of the division is \$2.2 million. He didn't think the fee would make a lot of difference.

**Vote:** Motion that **SB002801.ATP DO PASS** carried 12-7 with **BARKUS, COBB, COONEY, MCCARTHY, NELSON, SHEA, and TROPILA** voting no.

**Motion/Vote:** **SEN. JOHNSON** moved that **SB 28 DO PASS.** Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 5:25 P.M.

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SEN. TOM ZOOK, Chairman

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PRUDENCE GILDROY, Secretary

TZ/PG

**EXHIBIT (fcs19aad)**